

REMARKS

A. Overview

Claims 1-39 are pending in the present application. The claims have been rejected. Reconsideration is respectfully requested.

B. Section 112 Matters

Claims 1 and 39 have been amended as suggested by the Examiner solely to remedy any issue about definiteness under § 112.

C. Section 103 Rejections

(1) Stearns in View of Sadjadi (Claims 1-14, 17-27, 29-39)

The Examiner has rejected the above-itemized claims as obvious based on Stearns in view of Sadjadi. This rejection is respectfully traversed.

Stearns is entitled "Multispectral Reflectometer" and discloses and teaches an instrument which evaluates a sample that is on a slide. See, Stearns, col. 3, lines 46-55:

Sample 30 is ordinarily contained in a conventional slide (not shown). The slide may be loaded manually into a view port (not shown) located above collector 200 which collects the diffused, reflected radiation for sample 30.

Therefore, Stearns neither discloses nor teaches any of Applicants' independent claims 1, 21, 33 or 39, each of which include the limitation that the sample or the instrument is moving relative to one another.

Sadjadi discloses a yield monitor carried on a combine. A GPS device tells the Sadjadi system the location of the combine, and thus the part of the field the harvested grain is from. A grid of lighted areas (or lines defining non-illuminated areas) is projected onto a pile of grain on the combine conveyor. The grid is imaged in a camera. The imaged grid is compared to a reference grid (one imaged on the conveyor without any grain thereon). A comparison of the grids (intensity and/or geometrically) can be used to determine the amount of grain in the pile. See Sadjadi, col. 3, lines 26-50. The light grid is primarily directed to obtaining a yield measurement, not for evaluation of constituents of the sample. Sadjadi also discloses use of the system to estimate moisture content in the grain, but projects light at a first wavelength responsive to moisture content in the grain and projects light at a wavelength unresponsive to moisture content. The amount of reflectance from the two wavelengths are compared to determine a ratio of reflectance, which is dependent on the moisture in the grain.

Applicant's claims do not include a camera imaging of a grid of light or production of a ratio of reflectance between two wavelengths by changing filters and comparing measurements. Therefore, neither Stearns nor Sadjadi disclose the Applicants' claimed invention, nor do they suggest it. Moreover, there is no suggestion to combine those two references. They use different techniques and thus Sadjadi would not be looked to for combination with Stearns or vice versa.

(2) Stearns in View of Tobler (Claims 15, 16, 28)

The Examiner has rejected three claims on the basis of Stearns in view of Tobler. This rejection is respectfully traversed.

Stearns has been discussed above. It does not teach or suggest moving at least one of a sample and a measurement instrument relative to the other.

Tobler discloses an NIR evaluation system, including a computer, positioned in a food processing line. It does not teach or suggest moving the measurement instrument relative the sample under investigation.

Therefore, there is no teaching or suggestion of combination of Stearns and Tobler. Nor is there a teaching or suggestion of Applicants' claims 15, 16 or 28, even if Stearns and Tobler are combined.

D. Conclusion

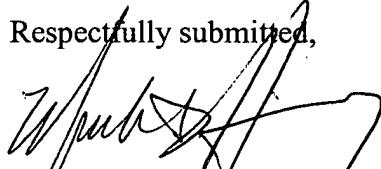
Enclosed please find a check for \$390, the fee for a two-month of extension of time for response to the Office Action, for which Applicants respectfully petition.

No additional fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Reconsideration and allowance is respectfully requested.

Respectfully submitted,


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